

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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| Applicants: | Soumya P. Sahoo, et al. | |
| Serial No.: | 10/021,667 | Case No.:20768 |
| Filed: | October 29, 2001 | |
| For: | BENZOPYRANCARBOXYLIC ACID DERIVATIVES FOR THE TREATMENT OF DIABETES AND LIPID DISORDERS | |

Art Unit:
1626Examiner:
Taofiq A. SololaCommissioner for Patents
Washington, D.C. 20231*Ms. enter to 6/6/03*
REQUEST FOR RECONSIDERATION OF FINALITY
OF OFFICE ACTION

This Request is submitted in response to the Final Office Action that was mailed May 19, 2003.

Applicants respectfully submit that the Final Office Action is premature and request the Examiner to withdraw the finality of the office action in accordance with MPEP§706.07 (d).

This Office Action should be a non-final action because it does not meet the requirements of MPEP§706.07. The second paragraph of MPEP§706.07 (a) provides the following explanation of whether or not a second office action is final:

U.S.S.N.
CASE NO.
Page No.10/021,667
20768
2

Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.9 (c) with the fee set forth in 37 CFR 1.17(p).

No prior art rejection was made in the first Office Action. In the present Office Action, the Examiner rejected the claims under sections 35 USC§102 and 35 USC§103 over references that were considered when the first Office Action was prepared. The Clemens et al reference (US Patent 5,563,164) that was cited in the current Office Action is the US equivalent of WO 95/17183, which was also considered by the Examiner in the preparation of the first Office Action.

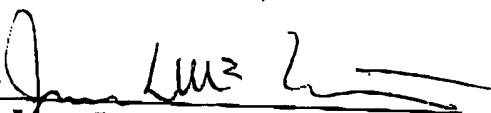
The Examiner states that the new rejections are necessitated by the applicants' amendments that were filed in response to the first office action. However, the previous amendments did not make the claims broader than the claims that were before the examiner in the preparation of the first office action. Therefore, the prior art rejections that are applied in this Office Action are not more necessary now than at the time of the previous office action. The scope of the applicants' claims has not been expanded. The amendments made by the applicants could not have necessitated these new rejections.

U.S.S.N. 10/021,667
CASE NO. 20768
Page No. 3

Therefore, the current office action should be a second non-final Office Action.

Applicants respectfully request a non-final Office Action. If the Examiner wishes to discuss any matter relating to this application, he is invited to telephone the undersigned attorney.

Respectfully submitted,

By 

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RE: Applicants: Soumya P. Sahoo, et al.

Case No.: 20768

Serial No.: 10/021,667

Filed: October 29, 2001

Title: BENZOPYRAN CARBOXYLIC ACID DERIVATIVES
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DISORDERS

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